

REFERENCE TITLE: missing persons; law enforcement duties

State of Arizona
House of Representatives
Fiftieth Legislature
Second Regular Session
2012

HB 2169

Introduced by
Representatives Dial, Gallego

AN ACT

AMENDING TITLE 41, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 51; RELATING
TO MISSING PERSONS OR UNIDENTIFIED HUMAN REMAINS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 41, Arizona Revised Statutes, is amended by adding
3 chapter 51, to read:

4 CHAPTER 51

5 MISSING PERSONS OR UNIDENTIFIED HUMAN REMAINS
6 ARTICLE 1. LAW ENFORCEMENT PROCEDURES INVOLVING
7 MISSING PERSONS OR UNIDENTIFIED HUMAN REMAINS

8 41-5101. Definitions

9 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

10 1. "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC SAFETY.

11 2. "HIGH RISK MISSING PERSON" MEANS AN INDIVIDUAL WHOSE WHEREABOUTS
12 ARE NOT CURRENTLY KNOWN AND THE CIRCUMSTANCES INDICATE THAT THE INDIVIDUAL
13 MAY BE AT RISK OF INJURY OR DEATH.

14 3. "LAW ENFORCEMENT AGENCY" MEANS ANY AGENCY OR ENTITY OF THIS STATE
15 THAT EMPLOYS A PEACE OFFICER, WHICH DUTIES INCLUDE LAW ENFORCEMENT.

16 41-5102. Missing persons; reports

17 A. ALL LAW ENFORCEMENT AGENCIES SHALL ACCEPT WITHOUT DELAY ANY REPORT
18 OF A MISSING PERSON. A LAW ENFORCEMENT AGENCY SHALL NOT REFUSE TO ACCEPT A
19 MISSING PERSON REPORT FOR ANY OF THE FOLLOWING REASONS:

20 1. THE MISSING PERSON IS AN ADULT.

21 2. THE CIRCUMSTANCES DO NOT INDICATE FOUL PLAY.

22 3. THE PERSON HAS BEEN MISSING FOR A SHORT PERIOD OF TIME.

23 4. THE PERSON HAS BEEN MISSING FOR A LONG PERIOD OF TIME.

24 5. THE CIRCUMSTANCES SUGGEST THAT THE DISAPPEARANCE MAY BE VOLUNTARY.

25 6. THE REPORTING PERSON DOES NOT HAVE PERSONAL KNOWLEDGE OF THE FACTS.

26 7. THE REPORTING PERSON CANNOT PROVIDE ALL OF THE INFORMATION THAT IS
27 REQUESTED BY THE LAW ENFORCEMENT AGENCY.

28 8. THE REPORTING PERSON LACKS A FAMILIAL OR OTHER RELATIONSHIP WITH
29 THE MISSING PERSON.

30 B. LAW ENFORCEMENT AGENCIES SHALL ACCEPT MISSING PERSON REPORTS IN
31 PERSON AND MAY ACCEPT REPORTS BY TELEPHONE OR BY ELECTRONIC OR OTHER MEDIA TO
32 THE EXTENT THAT THIS REPORTING IS CONSISTENT WITH LAW ENFORCEMENT POLICIES OR
33 PRACTICES.

34 C. IN ACCEPTING A MISSING PERSON REPORT, THE LAW ENFORCEMENT AGENCY
35 SHALL ATTEMPT TO GATHER RELEVANT INFORMATION RELATING TO THE DISAPPEARANCE,
36 INCLUDING THE FOLLOWING INFORMATION, IF KNOWN:

37 1. THE MISSING PERSON'S NAME, INCLUDING ALTERNATIVE NAMES USED.

38 2. THE MISSING PERSON'S DATE OF BIRTH.

39 3. IDENTIFYING MARKS, INCLUDING BIRTHMARKS, MOLES, TATTOOS OR SCARS.

40 4. HEIGHT AND WEIGHT.

41 5. GENDER.

42 6. RACE.

43 7. CURRENT HAIR COLOR AND TRUE OR NATURAL HAIR COLOR.

44 8. EYE COLOR.

45 9. PROSTHETICS OR SURGICAL OR COSMETIC IMPLANTS.

1 B. ALL DEOXYRIBONUCLEIC ACID SAMPLES OBTAINED IN A MISSING PERSON CASE
2 SHALL BE IMMEDIATELY FORWARDED TO THE DEPARTMENT FOR ANALYSIS. THE
3 DEPARTMENT SHALL ESTABLISH PROCEDURES FOR DETERMINING HOW TO PRIORITIZE
4 ANALYSIS OF THE SAMPLES RELATING TO MISSING PERSON CASES.

5 C. INFORMATION THAT IS RELEVANT TO THE FEDERAL BUREAU OF
6 INVESTIGATION'S VIOLENT CRIMINAL APPREHENSION PROGRAM SHALL BE ENTERED AS
7 SOON AS POSSIBLE.

8 D. THE LOCAL LAW ENFORCEMENT AGENCY SHALL MAKE USE OF ALL AVAILABLE
9 TOOLS, RESOURCES AND TECHNOLOGIES, AS APPLICABLE, TO RESOLVE A MISSING PERSON
10 CASE INCLUDING:

11 1. RECEIVING ASSISTANCE FROM:

12 (a) OTHER LAW ENFORCEMENT AGENCIES, WHETHER AT A LOCAL, STATE OR
13 FEDERAL LEVEL.

14 (b) NONPROFIT SEARCH AND RESCUE ORGANIZATIONS, WHICH MAY PROVIDE AT NO
15 CHARGE TRAINED ANIMAL SEARCHES.

16 2. USING:

17 (a) SPECIALIZED EQUIPMENT AND MAN TRACKERS.

18 (b) SERVICES PROVIDED BY THE NATIONAL CENTER FOR MISSING AND EXPLOITED
19 CHILDREN AND OTHER QUALIFIED ORGANIZATIONS.

20 (c) CELL PHONE TRIANGULARIZATION AND TRACKING.

21 3. SUBPOENAING:

22 (a) CELL PHONE, LAND LINE, E-MAIL AND SOCIAL NETWORKING WEBSITE
23 RECORDS.

24 (b) TECHNOLOGY EXPERTS TO EXAMINE ANY AVAILABLE INFORMATION OBTAINED
25 FROM A COMPUTER BELONGING TO OR USED BY THE MISSING PERSON.

26 E. THE DEPARTMENT SHALL FORWARD THE MISSING PERSON'S DEOXYRIBONUCLEIC
27 ACID SAMPLE TO A NATIONALLY ACCREDITED LABORATORY WHOSE MISSION IS TO PROVIDE
28 IDENTIFICATION AND FORENSIC ANALYSIS OF HUMAN REMAINS, ESTABLISH A BASIS FOR
29 FUTURE IDENTIFICATION OF PERSONS REPORTED MISSING AND PROVIDE EDUCATION
30 NATIONAL SERVICES TO THE MEDICAL AND LEGAL COMMUNITIES.

31 F. THIS SECTION DOES NOT PRECLUDE A LAW ENFORCEMENT AGENCY FROM
32 ATTEMPTING TO OBTAIN THE MATERIALS PRESCRIBED IN THIS SECTION BEFORE THE
33 EXPIRATION OF THE THIRTY-DAY PERIOD.

34 41-5105. High risk missing persons; presumption; notification;
35 report; definition

36 A. AN INDIVIDUAL IS PRESUMED TO BE A HIGH RISK MISSING PERSON IF ANY
37 OF THE FOLLOWING CIRCUMSTANCES EXISTS:

38 1. THE PERSON IS MISSING AS A RESULT OF A STRANGER ABDUCTION.

39 2. THE PERSON IS MISSING UNDER SUSPICIOUS CIRCUMSTANCES.

40 3. THE PERSON IS MISSING UNDER UNKNOWN CIRCUMSTANCES.

41 4. THE PERSON IS MISSING UNDER KNOWN DANGEROUS CIRCUMSTANCES.

42 5. THE PERSON IS MISSING MORE THAN THIRTY DAYS.

43 6. THE PERSON HAS ALREADY BEEN DESIGNATED AS A HIGH RISK MISSING
44 PERSON BY ANOTHER LAW ENFORCEMENT AGENCY.

1 7. THERE IS EVIDENCE THAT THE PERSON IS AT RISK BECAUSE THE MISSING
2 PERSON:
3 (a) IS IN NEED OF MEDICAL ATTENTION OR PRESCRIPTION MEDICATION.
4 (b) DOES NOT HAVE A PATTERN OF RUNNING AWAY OR DISAPPEARING.
5 (c) MAY HAVE BEEN ABDUCTED BY A NONCUSTODIAL PARENT.
6 (d) IS MENTALLY IMPAIRED.
7 (e) IS A PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE.
8 (f) HAS BEEN THE SUBJECT OF PAST THREATS OR ACTS OF VIOLENCE.
9 8. ANY OTHER FACTOR THAT, IN THE JUDGMENT OF THE LAW ENFORCEMENT
10 AGENCY, MAY LEAD THE AGENCY TO DETERMINE THAT THE MISSING PERSON MAY BE AT
11 RISK.
12 B. ON THE INITIAL RECEIPT OF A MISSING PERSON REPORT, THE LAW
13 ENFORCEMENT AGENCY SHALL IMMEDIATELY DETERMINE WHETHER THE MISSING PERSON IS
14 A HIGH-RISK MISSING PERSON. IF A LAW ENFORCEMENT AGENCY HAS PREVIOUSLY
15 DETERMINED THAT A MISSING PERSON IS NOT A HIGH RISK MISSING PERSON BUT
16 OBTAINS NEW INFORMATION AFTER MAKING THAT DETERMINATION, THE AGENCY SHALL
17 IMMEDIATELY DETERMINE WHETHER THE INFORMATION INDICATES THAT THE PERSON
18 MISSING IS A HIGH RISK MISSING PERSON. A LAW ENFORCEMENT AGENCY SHALL
19 PERFORM THE RISK ASSESSMENTS NOT MORE THAN TWO HOURS AFTER THE INITIAL
20 MISSING PERSON REPORT IS FILED OR TWO HOURS AFTER ANY NEW INFORMATION IS
21 PROVIDED TO THE LAW ENFORCEMENT AGENCY. A LAW ENFORCEMENT AGENCY MAY
22 ESTABLISH WRITTEN PROTOCOLS FOR THE HANDLING OF MISSING PERSON CASES.
23 C. IF THE LAW ENFORCEMENT AGENCY DETERMINES THAT THE MISSING PERSON IS
24 A HIGH RISK MISSING PERSON, THE AGENCY SHALL NOTIFY THE DEPARTMENT AND SHALL
25 IMMEDIATELY PROVIDE TO THE DEPARTMENT THE INFORMATION MOST LIKELY TO AID IN
26 THE LOCATION AND SAFE RETURN OF THE HIGH RISK MISSING PERSON. THE AGENCY
27 SHALL PROVIDE AS SOON AS POSSIBLE ALL OTHER INFORMATION OBTAINED RELATING TO
28 THE HIGH RISK MISSING PERSON CASE. THE DEPARTMENT SHALL IMMEDIATELY NOTIFY
29 ALL LAW ENFORCEMENT AGENCIES IN THIS STATE AND SURROUNDING REGIONS OF THE
30 INFORMATION THAT WILL AID IN THE PROMPT LOCATION AND SAFE RETURN OF THE HIGH
31 RISK MISSING PERSON.
32 D. THE LOCAL LAW ENFORCEMENT AGENCIES THAT RECEIVE NOTIFICATION FROM
33 THE DEPARTMENT PURSUANT TO SUBSECTION C OF THIS SECTION SHALL NOTIFY OFFICERS
34 TO BE ON THE WATCH FOR THE MISSING PERSON OR A SUSPECTED ABDUCTOR.
35 E. THE LOCAL LAW ENFORCEMENT AGENCY WITH PRIMARY JURISDICTION SHALL
36 IMMEDIATELY ENTER ALL COLLECTED INFORMATION RELATING TO THE MISSING PERSON
37 CASE IN AVAILABLE STATE AND FEDERAL DATABASES. IF THE LOCAL LAW ENFORCEMENT
38 AGENCY WITH PRIMARY JURISDICTION DOES NOT HAVE THE CAPABILITY TO ENTER THIS
39 DATA DIRECTLY IN THE STATE AND FEDERAL DATABASES, THE DEPARTMENT SHALL
40 IMMEDIATELY ENTER ALL COLLECTED INFORMATION RELATING TO THE MISSING PERSON
41 CASE IN AVAILABLE STATE AND FEDERAL DATABASES. THE INFORMATION SHALL BE
42 PROVIDED PURSUANT TO APPLICABLE GUIDELINES RELATING TO THE DATABASES. THE
43 LOCAL LAW ENFORCEMENT AGENCY WITH PRIMARY JURISDICTION OR THE DEPARTMENT
44 SHALL:

1 1. ENTER THE REPORT IN A HIGH RISK MISSING PERSON CASE AND ALL
2 RELEVANT INFORMATION PROVIDED INTO THE NATIONAL CRIME INFORMATION CENTER
3 DATABASE WITHIN TWO HOURS AFTER THE DETERMINATION THAT THE MISSING PERSON IS
4 A HIGH RISK MISSING PERSON. ALL OTHER MISSING PERSON REPORTS AND ALL
5 RELEVANT INFORMATION SHALL BE ENTERED INTO THE NATIONAL CRIME INFORMATION
6 CENTER DATABASE WITHIN ONE DAY AFTER THE MISSING PERSON REPORT IS RECEIVED.
7 SUPPLEMENTAL INFORMATION ON HIGH RISK MISSING PERSON CASES SHALL BE ENTERED
8 AS SOON AS POSSIBLE.

9 2. UPLOAD ALL DEOXYRIBONUCLEIC ACID PROFILES INTO THE MISSING PERSON
10 DATABASES OF THE STATE DEOXYRIBONUCLEIC ACID INDEX SYSTEM AND NATIONAL
11 DEOXYRIBONUCLEIC ACID INDEX SYSTEM AFTER COMPLETION OF THE DEOXYRIBONUCLEIC
12 ACID ANALYSIS AND OTHER PROCEDURES REQUIRED FOR DATABASE ENTRY.

13 3. ENTER ANY INFORMATION THAT IS RELEVANT TO THE FEDERAL BUREAU OF
14 INVESTIGATION'S VIOLENT CRIMINAL APPREHENSION PROGRAM AS SOON AS POSSIBLE.

15 4. IF THE MISSING PERSON IS EIGHTEEN, NINETEEN OR TWENTY YEARS OF AGE
16 AT THE TIME OF THE DISAPPEARANCE, COMPLY WITH ALL FEDERAL LAWS, INCLUDING
17 CONTACTING THE NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN AND REQUEST
18 THAT THE CASE BE ENTERED INTO THEIR DATABASE AND THAT THE MISSING PERSON'S
19 PHOTOGRAPH AND INFORMATION BE DISPLAYED ON THEIR WEBSITE.

20 F. THE DEPARTMENT SHALL ENSURE THAT A PERSON WHO ENTERS DATA RELATING
21 TO MEDICAL OR DENTAL RECORDS IN A STATE OR FEDERAL DATABASE IS SPECIFICALLY
22 TRAINED TO UNDERSTAND AND CORRECTLY ENTER THE INFORMATION. THE DEPARTMENT
23 SHALL EITHER USE PERSONS WITH SPECIFIC EXPERTISE IN MEDICAL OR DENTAL RECORDS
24 FOR THIS PURPOSE OR CONSULT WITH THE PROPER EXPERTS TO ENSURE THE ACCURACY
25 AND COMPLETENESS OF ANY INFORMATION THAT IS ENTERED INTO THE STATE AND
26 FEDERAL DATABASES.

27 G. PURSUANT TO ANY APPLICABLE STATE CRITERIA, LOCAL LAW ENFORCEMENT
28 AGENCIES SHALL PROVIDE FOR THE PROMPT USE OF AN AMBER ALERT OR PUBLIC
29 DISSEMINATION OF PHOTOGRAPHS IN APPROPRIATE HIGH RISK CASES.

30 41-5106. Death scene investigations; handling

31 A. THE DEPARTMENT SHALL PROVIDE INFORMATION TO LOCAL LAW ENFORCEMENT
32 AGENCIES ABOUT BEST PRACTICES FOR HANDLING DEATH SCENE INVESTIGATIONS.

33 B. THE DEPARTMENT SHALL IDENTIFY ANY PUBLICATIONS OR TRAINING
34 OPPORTUNITIES THAT MAY BE AVAILABLE TO LOCAL LAW ENFORCEMENT AGENCIES OR
35 PEACE OFFICERS CONCERNING THE HANDLING OF DEATH SCENE INVESTIGATIONS.

36 C. AFTER PERFORMING ANY DEATH SCENE INVESTIGATION DEEMED APPROPRIATE
37 UNDER THE CIRCUMSTANCES, THE OFFICIAL WITH CUSTODY OF THE HUMAN REMAINS SHALL
38 ENSURE THAT THE HUMAN REMAINS ARE DELIVERED TO THE COUNTY MEDICAL EXAMINER.

39 41-5107. Discovery of human remains; notification

40 A. ANY PERSON WITH CUSTODY OF HUMAN REMAINS THAT ARE NOT IDENTIFIED
41 WITHIN TWENTY-FOUR HOURS AFTER DISCOVERY SHALL PROMPTLY NOTIFY THE DEPARTMENT
42 OF THE LOCATION OF THOSE REMAINS.

43 B. IF THE PERSON WITH CUSTODY OF THE REMAINS CANNOT DETERMINE WHETHER
44 THE REMAINS FOUND ARE HUMAN, THE PERSON SHALL NOTIFY THE DEPARTMENT OF THE
45 EXISTENCE OF POSSIBLE HUMAN REMAINS.

1 3. INFORMATION THAT IS RELEVANT TO THE FEDERAL BUREAU OF
2 INVESTIGATION'S VIOLENT CRIMINAL APPREHENSION PROGRAM AS SOON AS POSSIBLE.
3 4. INFORMATION APPLICABLE TO THE NATIONAL MISSING AND UNIDENTIFIED
4 PERSONS SYSTEM DATABASE SHALL BE ENTERED AS SOON AS PRACTICABLE.
5 5. FINGERPRINTS AND DENTAL INFORMATION SHALL BE ENTERED INTO THE
6 APPROPRIATE STATE AND NATIONAL DATABASES AS SOON AS PRACTICABLE.
7 H. IF COUNTY MEDICAL EXAMINER OFFICE PERSONNEL DO NOT INPUT THE DATA
8 DIRECTLY INTO THE FEDERAL DATABASES, THE DEPARTMENT SHALL CONSULT WITH THE
9 COUNTY MEDICAL EXAMINER TO ENSURE APPROPRIATE TRAINING OF THE DATA ENTRY
10 PERSONNEL AND THE ESTABLISHMENT OF A QUALITY ASSURANCE PROTOCOL FOR ENSURING
11 THE ONGOING QUALITY OF DATA ENTERED IN THE FEDERAL AND STATE DATABASES.
12 I. THIS CHAPTER DOES NOT PRECLUDE ANY COUNTY MEDICAL EXAMINER, THE
13 DEPARTMENT OR A LOCAL LAW ENFORCEMENT AGENCY FROM PURSUING OTHER EFFORTS TO
14 IDENTIFY UNIDENTIFIED HUMAN REMAINS, INCLUDING EFFORTS TO PUBLICIZE
15 INFORMATION, DESCRIPTIONS OR PHOTOGRAPHS THAT MAY AID IN THE IDENTIFICATION
16 OF THE UNIDENTIFIED HUMAN REMAINS, ALLOWING FAMILY MEMBERS TO IDENTIFY THE
17 MISSING PERSON AND SEEKING TO PROTECT THE DIGNITY OF THE MISSING PERSON.
18 J. A LAW ENFORCEMENT AGENCY THAT IS HANDLING THE REMAINS OF A PERSON
19 WHO WAS REPORTED MISSING SHALL NOTIFY THE LAW ENFORCEMENT AGENCY THAT IS
20 HANDLING THE MISSING PERSON CASE. THE LAW ENFORCEMENT AGENCIES SHALL MAKE
21 DOCUMENTED EFFORTS TO LOCATE FAMILY MEMBERS OF THE DECEASED PERSON TO INFORM
22 THEM OF THE DEATH AND THE LOCATION OF THE REMAINS OF THEIR FAMILY MEMBER.